



THE BANKRUPTCY ADVISOR



Volume 10, Issue 4

A Periodic Publication of the U.S. Bankruptcy Court for the Northern District of Florida

December 2012

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Mortgage Modification/Mediation Coming Soon

The process is currently underway to implement mortgage modification/mediation in the Northern District of Florida. Our program will be based on the same successful principles as those currently in practice in the Middle District of Florida.

For more information on the current mortgage modification mediation program for the U.S. Bankruptcy Court for the Middle District of Florida, please visit their website for [instructions and sample documents](#).

If you wish to provide input on the process being developed in the Northern District of Florida, please submit your comments and suggestions by email to ch13comments@flnb.uscourts.gov.

We anticipate implementation of the program on March 1, 2013. All changes will be posted to our website and included in future issues of *The Bankruptcy Advisor*.

Notice Regarding Proposed Orders

Effective December 20, 2012, proposed orders which do not meet the new local requirements will be returned for modification and compliance. Judge Specie's requirements are available on the [Filing Requirements](#) page of our website or through the links below:

[Judge Specie's "Do's and Don'ts"](#)
[Proposed Order Guidelines](#)

Proposed orders are to be submitted electronically via the "Submit Proposed Order" link on the Bankruptcy or Adversary menus in CM/ECF, are to be in word processing format (preferably Word), and must be submitted within three (3) days of the expiration of a response deadline (in negative notice instances) or a ruling on the issue. (N.D. Fla. LBR 9072-1).

Hearing Changes Effective January 1, 2013

Please make note of the following information regarding hearings by the Honorable Karen K. Specie, U.S. Bankruptcy Judge for the Northern District of Florida:

Gainesville: Court will be held the first Thursday of each month.

Tallahassee: Court will be held the second Thursday of each month.

Pensacola: Court will be held the fourth Wednesday of each month.

Panama City: Court will be held the fourth Thursday of each month.

Gainesville Division

10:30 a.m. - Chapter 13 Motions to Dismiss and Confirmation Hearings

11:30 a.m. - All other matters

Large or evidentiary matters to be scheduled as needed

Tallahassee Division

9:30 a.m. - Chapter 13 Motions to Dismiss and Confirmation Hearings

10:30 a.m. - All other matters

1:00 p.m. - Large or evidentiary matters, if necessary

Panama City and Pensacola Divisions

9:00 a.m. - Chapter 13 Motions to Dismiss and Confirmation Hearings

10:00 a.m. - All other matters

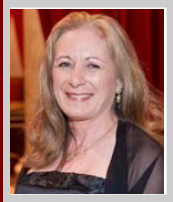
1:00 p.m. - Large or evidentiary matters, if necessary

Video Conference: Video conference hearings in Gainesville and Panama City will now be scheduled on an “as needed” basis and will no longer be a regularly scheduled, monthly occurrence.

Preliminary Hearing on Motion for Relief from Stay (all divisions): These hearings will be held by **CourtCall** on Tuesdays at 11:00 a.m., *Eastern Time*. [Procedures for using CourtCall](#) are located on the Court Resources page of our website. ***Parties are to notify the Court of a settlement no later than 3:00 p.m. the day before the hearing or the hearing will be held.***

NOTE: Court days indicated herein for each division are *anticipated* days for court. Occasionally holidays or other circumstances will necessitate that hearings be scheduled on a different day. You will be provided timely notice of such instances.

Chief Judge Jennemann (FLMB), Chief Judge Mahoney (ALSB), and Judge Shulman (ALSB) do not maintain regularly scheduled court dates in the Northern District of Florida and will continue to schedule hearings as needed in cases assigned to them.



Views & News from the Bench

By: Karen K. Specie
United States Bankruptcy Judge
Northern District of Florida

An issue facing many bankruptcy courts, including this one, is how, when and under what circumstances parties should file and courts should sustain or overrule objections to claims. An opinion by Judge John K. Olson, of the Southern District of Florida Bankruptcy Court, *In re MacFarland*, 462 B.R. 857 (Bankr. S.D. Fla. 2011), brought the issue into sharp focus.

In *MacFarland*, Judge Olson entered orders to show cause, held hearings, and then sanctioned attorneys under Rule 9011(b) for filing objections to claims in eleven separate Chapter 13 cases. The attorneys represented debtors who had listed certain creditors and claims in their Schedules, not as disputed, contingent or unliquidated. Debtors' counsel then filed objections to Proofs of Claim filed by the listed creditors on the basis of "insufficient documentation" and that the Debtor disputed the debt and the amount. In most cases, the Proofs of Claim matched, almost to the penny, the claims listed by the debtors. If no one replied to the claims objections, the debtors' counsel submitted proposed orders striking and disallowing the claims; when opposed, Debtors' counsel withdrew the claims objections. In finding that "[t]he conduct of Debtors' counsel had the appearance of a concerted effort to either avoid reasonable review of the claims register as required by Local Rule 2083-1(B) or to improperly achieve favorable results for his clients," and imposing Rule 9011 sanctions Judge Olson noted:

[T]he growing majority of bankruptcy courts and appellate courts have read 28 U.S.C. § 2075 and 11 U.S.C. §502(b) as giving no discretion to disallow a claim for any reason other than those stated in § 502.

...

[A] creditor's failure to comply with Fed. R. Bankr. P. 3001(c) does not per se justify claim disallowance, especially when the debtor has scheduled the debt in substantially the same or greater amount and not scheduled the debt (in good faith) as contingent or disputed. See *Moreno*, 341 B.R. 813; *Felipe*, 319 B.R. 730; see also *In re Armstrong*, 320 B.R. 97, 104 (Bankr. N.D. Tex. 2005) (Felsenthal, Houser, & Hale, JJ.). By filing a petition and schedules, a debtor makes a sworn statement under penalty of perjury regarding the debtor's understanding of his or her debts, and creditors file claims under that same scrutiny. *Armstrong*, 320 B.R. at 107. Debtors' attorneys must carefully consider their ethical obligations under Fed. R. Bankr. P. 9011 (b) when objecting to a claim. See *In re Branch*, 2009 WL 2046510, at *4 (Bankr. E.D. Tex. 2009). Filing a mass of claim objections alleging "lack of documentation" does not permit debtors' counsel to strike and disallow claims for debts which the debtor has already admitted to owing. *Orozco*, Case No. 09-34626-BKC-RAM, ECF No. 109, at 2-3 (citing *Moreno*, 341 B.R. at 816; *Felipe*, 356 B.R. at 907). Rather, it subjects debtors' counsel to the prospect of Rule 9011 sanctions for isolated occurrences, and substantially more onerous sanctions when there is a persistent pattern.

While courts are not generally enthusiastic about issuing sanctions against attorneys, Judge Olson's opinion is a reminder of the majority view of Bankruptcy Code and Rules applicable to claims and objections.

Change of Address for the U.S. Securities & Exchange Commission

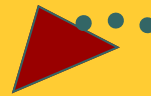
In December, 2011, the Atlanta Regional Office of the U.S. Securities and Exchange Commission moved to a new location. Until recently they were still receiving mail addressed to the old location (3475 Lenox Rd.) , however, the forwarding period has expired and mail is no longer being forwarded by the postal service. Please update your software to reflect the correct address:

U. S. Securities and Exchange
Commission
950 East Paces Ferry, N.E. , Ste. 900
Atlanta, GA 30326-1382

NOTE: The website for the U.S. Securities and Exchange Commission denotes a Miami, Florida address for mail from cases filed within the state of Florida. We have been advised by Susan Sherrill-Beard, Senior Trial Attorney/Bankruptcy, that all mail should be sent to the Atlanta, Georgia address noted above.



Tips



& Tricks

"Do's and Don'ts"

Judge Specie has created a list of "Do's & Don'ts" regarding continuances, courtroom and hearing etiquette, objections to claims, proposed orders and stay relief. In addition to the summary text provided on the website, there is a brief PDF document attached for your use.

Be advised that effective December 20, 2012, all proposed orders that do not meet the requirements as specified will be returned to the submitter.

Visit the [Filing Requirements](#) page of our website for more information.

New Requirements Regarding Voluminous Motions for Summary Judgment

Effective November 1, 2012, If a Motion for Summary Judgment, together with any attachments (i.e., affidavits, exhibits, and depositions referenced), exceeds 100 pages, the moving party must supply a full courtesy copy to chambers upon filing the motion. The same rule applies to any responsive pleading filed.

The copies may be hand delivered to or sent via U.S. Mail to the Clerk's Office at 110 E. Park Ave., Ste. 100, Tallahassee, FL 32301.

Holiday Closings

The U.S. Bankruptcy Court for the Northern District of Florida
will be closed on the following dates:

Monday, December 24 - Tuesday, December 25, 2012

Monday, December 31, 2012 - Tuesday, January 1, 2013

Monday, January 21, 2013

Monday, February 18, 2013

CM/ECF will be available for electronic filings.

We wish you happy holidays and a joyful new year!



Pro Bono Representation of Debtors - *New Filing Event*

We have created a new, paperless filing event for attorneys to notify the Court of their *pro bono* representation of a debtor. This new event, "Pro Bono Representation of Debtor(s), Notice of (Paperless)," will assist us in making every effort to schedule any matters before the court at the beginning of the docket in appreciation of your donated time.

Proposed Rules Amendments Published for Public Comment

The Judicial Conference Advisory Committees on Appellate, Bankruptcy, Criminal, and Evidence Rules have proposed amendments to their respective rules and forms, and have published these proposed amendments for public comment. The proposed amendments, Committee reports, and other information are posted on the Judiciary's website [here](#). **The comment period ends February 15, 2013.**

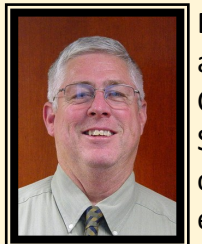
Spotlight

Lisa Davis - 25 Years Tallahassee



Since joining the Clerk's Office as the Secretary to the Clerk in 1987, Lisa has performed the duties of docketing clerk, Case Administrator, and currently is the Court Operations Specialist. In this role, she is responsible for providing support to the Director of Court Operations, assistance to the other Case Administrators, and performing some financial duties. Lisa says, "I feel very fortunate that I have been able to establish a career with the Bankruptcy Court and have enjoyed working with the Court all these years and with such great people. In her spare time, Lisa enjoys going to the beach, fishing and boating, and being with family.

Bruce Justham - 10 Years Tallahassee



Bruce is the Information Technology Administrator for our district which includes administration of the CM/ECF program as well as several internal programs used by the Clerk's Office. A graduate of the Florida State University with both a BS and MS in Computer Science, he owned/operated a software development company specializing in communications software prior to his employment with the court. In his spare time Bruce enjoys fishing, diving, and is part of a competition BBQ cook team.

The Bankruptcy Court Welcomes Alfred Lojo!

Alfred Lojo, former extern to Judge Killian, will be joining Courtney McCormick as law clerk for Judge Karen K. Specie on January 7, 2013. Alfred received his B.S. at the University of Florida and is a graduate of the FSU College of Law.

HELP DESK HINTS...



Co-Debtor Stays

Motions for Relief from the Stay **may not include** a separate request for the co-debtor. The Motion for Relief from the *Co-Debtor* Stay must be filed as a separate motion pursuant to N.D. Fla. LBR 7007-1 B which states, "Each motion shall contain no more than one claim or request for relief unless the prayer is seeking alternative relief provided for in a single section of the Bankruptcy Code or Rules."

Objection to Claim

Per N.D. Fla. LBR 3007-1 B., objections to claims shall be filed on negative notice in accordance with N.D. Fla. LBR 2002-2.B(3). Objections to claims not filed in accordance with these Rules will be scheduled for hearing. *Objections to claims of federal government agencies may not be filed on negative notice and service must be executed pursuant to F.R.B.P. 7004(b)(4).*

Motion to Reopen Chapter 7 Case

Rule 5010, Fed. R. Bankr. P., provides that a trustee shall not be appointed in a reopened bankruptcy case unless a trustee is necessary to protect the interests of creditors and the debtor or to ensure efficient administration of the case. Reappointment of a chapter 7 trustee will not occur without specific inclusion of such a request in the motion to reopen and the order on said motion.

Expedited or Emergency Motions

Judge Specie will not consider an emergency motion without a Statement of Need for Emergency Hearing. The Statement must include why the relief requested requires an emergency hearing, that the need for an emergency hearing is not caused by lack of due diligence, and that efforts have been made to resolve the issue without an emergency hearing. (N.D. Fla. LBR 9073-1 B). This statement is to be filed separately from the motion.

ECF Essentials

Upgrade to Version 5

The U.S. Bankruptcy Court for the Northern District of Florida will upgrade our system to the latest version of CM/ECF in the spring of 2013. This upgrade will include, but is not limited to, the ability to list multiple Social Security Numbers for each debtor, new report options, document viewing improvements, and enabling payments by credit card to limited use/creditor filers for the new fee required for filing a Transfer of Claim (effective 5/1/13). More information on the changes, training, and system unavailability will be provided well in advance of the upgrade through *The Bankruptcy Advisor*, notifications on our website, and via mass email.

NOTE: Releases 5.0 and 5.1 have been tested, and work correctly with, Internet Explorer 8 and 9 and Firefox browsers.

**Investiture Ceremony of
Honorable Karen K. Specie
United States Bankruptcy Judge
Monday, December 10, 2012**

Family, friends, colleagues, and judicial brethren travelled to Tallahassee to attend the Special Session of Court before Chief Judge Joel F. Dubina, Eleventh Circuit Court of Appeals, Chief Judge M. Casey Rodgers, U.S. District Court for the Northern District of Florida, Judge Robert L. Hinkle, Judge Mark E. Walker, Senior District Judge William H. Stafford, Jr., and Senior District Judge Lacey A. Collier of the U.S. District Court for the Northern District of Florida for the investiture of the Honorable Karen K. Specie.

Judge Specie was honored by remarks from the Honorable Joel F. Dubina, Chief Judge of the Eleventh Circuit Court of Appeals, the Honorable Lewis M. Killian, Jr. (retired), Brian Rich, Esq., President of the Northern District of Florida Bankruptcy Bar Association, Samuel Zusmann, Jr., Esq. of Holland & Knight, LLP, Russell M. Blain, Esq., of Stichter, Riedel, Blain & Prosser, P.A., and John McDonald, Esq., of Akerman Senterfitt. Judge Specie's daughter sang the national anthem, her son gave the invocation and benediction, her other son, currently an exchange student in Germany, attended via the wonders of modern technology. The investing of the robe was done by Judge Specie's husband and children. After the ceremony, everyone attended a reception in the Courthouse lobby which was sponsored by the Bench and Bar Fund and the Northern District of Florida Bankruptcy Bar Association.



"Thank you to all who attended my Investiture on December 10, 2012. The ceremony and reception were wonderful, and I appreciate everyone taking time out of their busy schedules to attend." ~ Karen K. Specie

FLNB Attorney Board of Advisors

By Traci Abrams, Chief Deputy Clerk, U.S. Bankruptcy Court

The Board of Advisors Takes the Lead

The Board of Advisors was established in July of 2007 as a communications tool designed to promote interactions between the Clerk's Office, chambers, the Bar and the public. Its current cadre of volunteers represents a mix of legal specialties and disciplines. Formerly, the role of the Board was informal; members met quarterly and were sought out for advice and counsel as needed by the Bar and upon the request of the Clerk's Office and the Bankruptcy Judge. However, The Honorable Karen K. Specie has requested and the membership has agreed to serve a more structured role.

The Board of Advisors will now act as a formal conduit through which all ideas for judicial improvements should be submitted by the Bar and the public for review. Ideas or questions that cannot be resolved or implemented by Clerk's Office personnel will be forwarded to Board members as agenda items. Board reviews of agenda items will take place, substantially, during scheduled quarterly meetings but may also be accomplished through ad hoc meetings as needed. The role of each Board member will be to interact with colleagues and gather information about agenda items in order to supply Judge Specie with recommendations.

The goal of this new process is to promote efficiency. Using the Board as a formal conduit of ideas will eliminate the duplication of effort which can occur when ideas are promoted through multiple channels. The new process will also allow for input from a wider audience since all thoughts, ideas and concerns submitted by Bar members and the public will flow through one entity. Finally, the new structure will ensure that the needs of all legal specialties are properly represented and considered before final decisions are made.

Please visit the [Board of Advisors](#) page of our website (under Court Resources) for a list of [current members](#) or to use the [Topic Request Form](#) to submit an idea for consideration by the Board. Use of the form will generate an email to Clerk of Court William Blevins and Traci Abrams, Chief Deputy Clerk.

ATTENTION ATTORNEYS

Please note the changes to Judge Specie's hearing schedule contained on [page 2](#) of this publication.

Video Conference hearings in the Gainesville and Panama City Divisions will no longer be held each month.

Coming Soon ... Chapter 11 Case Upload

The CM/ECF Case Upload screens will change in January 2013 to be chapter specific and to allow the upload of Chapter 11 cases.

FLNB Resources

Rev. 09/12

Cases in the Northern District of Florida are randomly assigned to Case Administrators throughout the district shortly after filing. The name of the Case Administrator to whom a particular case is assigned is located at the top of the docket report in CM/ECF. Contact information for each Case Administrator is as follows:

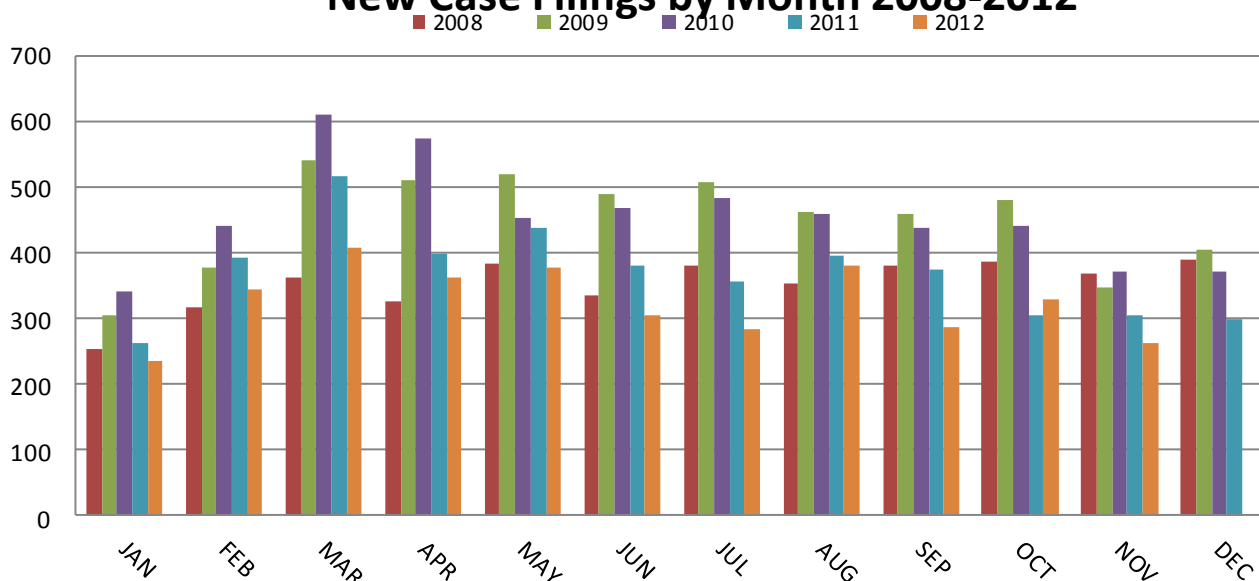
Ann Kennington	Ann_Kennington@flnb.uscourts.gov	(850) 470-3060
Carolyn Romine	Carolyn_Romine@flnb.uscourts.gov	(850) 470-3062
Claire Bikowitz	Claire_Bikowitz@flnb.uscourts.gov	(850) 521-5016
Latonia Isom	Latonia_Isom@flnb.uscourts.gov	(850) 521-5012
Lisa Davis	Lisa_Davis@flnb.uscourts.gov	(850) 521-5010
Monica Broussard	Monica_Broussard@flnb.uscourts.gov	(850) 470-3061
Lexie Lewis	Lexie_Lewis@flmb.uscourts.gov (for cases assigned to Judge Jennemann [FLMB] only)	(407) 648-6365 x6211

Help Desk - Debra Cook
CMECF_Helpdesk@flnb.uscourts.gov
 850-521-5002 or 888-765-1752

CM/ECF Login or Password - Ne'Shoni Love
NeShoni_Love@flnb.uscourts.gov
 850-521-5011 or 866-639-4615

The Clerk's Office phones are answered from 9:00 a.m. until 4:00 p.m., Monday through Friday, except federal holidays. Please feel free to call or email the Case Administrators with your procedural questions.

Please visit us on the web at www.flnb.uscourts.gov

New Case Filings by Month 2008-2012

The monthly filing and closing statistics for the U.S. Bankruptcy Court for the Northern District of Florida are posted to the [Court Resources](#) page of our website at www.flnb.uscourts.gov. Statistical information will be available by the 15th of each month.